

ENTERED

June 20, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CURTIS ALLEN GAMBILL, JESSE WADE HOLT, MARK ANTHONY REYNA, EDDIE RAY FOWLER; PRESCILLIANO MARTINEZ, and JUAN ANTONIO DE LEON,

Plaintiffs,

V.

**BRYAN COLLIER, STEPHEN BRYANT,
TARA BURSON, JOHN WERNER,
ASHLEY L. HASTINGS, VIRGINIA S.
STEVENS, RODGER BOWERS, and
ROCKY N. MOORE,**

Defendants.

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Civil Action No. 4:21-CV-01076

ORDER GRANTING MOTION FOR APPOINTMENT OF COUNSEL

Plaintiffs are inmates in the Texas Department of Criminal Justice ("TDCJ"). On March 30, 2021, they filed suit under 42 U.S.C. § 1983 against Defendants, TDCJ employees and officials, alleging that they have been placed in restrictive custody classifications without due process and in violation of their right to equal protection under the law. They seek injunctive and declaratory relief and now seek appointment of counsel to represent them in this case. The defendants oppose the motion for appointment of counsel.

A civil rights plaintiff has no automatic right to the appointment of counsel. See *Hulsey v. State of Texas*, 929 F.2d 168, 172-73 (5th Cir. 1991) (citing *Freeze v. Griffith*, 849 F.2d 172, 175 (5th Cir. 1988); *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982)). The

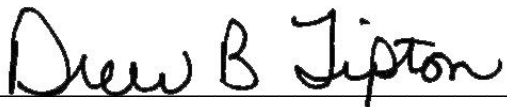
appointment of counsel is not required unless a case presents exceptional circumstances. *See Hulsey*, 929 F.2d at 173 (citing *Ulmer*, 691 F.2d at 212-13).

This is a multi-plaintiff case, and the plaintiffs' complaint has survived a motion to dismiss. In light of the seriousness of the plaintiffs' claims and the added complexity of having multiple plaintiffs independently pursuing their claims and limited in their ability to coordinate their legal strategy by virtue of their incarceration, this case presents exceptional circumstances.

The plaintiffs' Motion for Appointment of Counsel, (Dkt. No. 77) is **GRANTED**. All other pending motions are **DENIED** at this time so that counsel may formulate a strategy for pursuing the plaintiffs' claims. This case is **STAYED** pending the appointment of counsel to represent the plaintiffs.

It is SO ORDERED.

Signed on June 16, 2023.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE